IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 14334 of 2005

Between:

1 Kashinath Bachuwar, S/o. Vishwanath Bachuwar,
R/o. 4-3-58/33, Bhainsa, Adilabad.
2 Smt. Laxmi Bai Bachuwar, W/o. Kashinath Bachuwar,
R/o. 4-3-58/33, Bhainsa, Adilabad.

..... PETITIONERS

AND

1 The Deputy Commissioner of Excise, Kareemnagar A.P.
2 Superintendent of Excise and Prohibition, Adilabad District.
3 Circle Inspector of Excise, Bhainsa, Adilabad District.
4 M. Sudershan Goud, S/o. M. Yella Goud,
R/o. 4-3-58/34, Bhainsa, Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an order, direction or Writ more in the nature of rate of mandamus, directing the respondents 1 to 3 not to issue any license the 4th respondent to open a Bar & Restaurant in the premises bearing No.4-3-58/34, Bhainsa Town, and the same in violative of Rule 27 & 29 of A.P. (Indian Liquor and foreign Liquor) Rules 1970 and Rule 27 of A.P. Excise (Lease of right of selling by shop and conditions of license rules 2005) in short referred to as A.P. Excise Rules 2005, And further direct the 1st respondent to hear the petitioners before issuing any orders to 4th respondents in this regard and to pass.

Counsel for the Petitioners: MR.K.MANIK PRABHU

Counsel for the Respondent No.1 to 3: GP FOR PROHIBITION & EXCISE

Counsel for the Respondent No.4: NONE APPEARS

The Court, at the stage of admission, made the following :

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ORAL ORDER

The petitioners have come on an apprehension. They apprehend that the 4th respondent would be granted an IL-17 licence under the A.P. Excise Act,1968 for running a Bar and Restaurant in the premises bearing No.4-3-58/34, Bhainsa town, Adilabad District contrary to the provisions of the extant legal regime governing the grant of such licence. The petitioners are immediate neighbours of the premises where they apprehend the 4th respondent could be issued a licence. The petitioners' further apprehension is that the 4th respondent has started sprucing up the premises and furnishing the premises and on this they premise that the 4th respondent has some concrete expectation of grant of a licence in his favour. The petitioners have filed an objection petition dated 22-06-2005 addressed to the respondents herein requesting them not to grant a Bar and Restaurant licence to the 4th respondent. The petitioners assert that the respondents are not considering their objections and are not likely to.

The licensing authority is required to consider all objections by citizens against grant of licences including licences for running a Bar and Restaurant as, it is the settled legal position that the farming out of the exclusive privilege in alcoholic beverage is a State conduct in an area which is essentially a *res extra commercium*. The objections of the families living in the immediate neighbourhood where a licence is applied for, would certainly be a relevant factor for the licensing authority's discretion. There is no warrant for the presumption and the consequent apprehension of the petitioners that the licensing authority is oblivious to this statutory responsibility as a licensing authority. As on date no licence has been issued to the 4th respondent and therefore the case is not ripe for judicial review as there is no State conduct that requires to be adjudicated or interdicted.

The writ petition is premature and is accordingly dismissed. The petitioners are at liberty to pursue their remedies as and when they suffer a concrete injury either to a right or a legitimate expectation.

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GODA RAGHURAM,J

5TH JULY 2005

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To

1 The Deputy Commissioner of Excise, Kareemnagar,
2 The Superintendent of Excise and Prohibition, Adilabad District.
3 The Circle Inspector of Excise, Bhainsa, Adilabad District.

4. Two CCs to G.P for Excise, High Court Buildings, Hyderabad (OUT)

5. Two C.D.Copies.